
HOUSE BILL No. 1496

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Renewable energy resources. Requires the Indiana utility regulatory commission to consider certain expenditures related to ethanol construction projects in the rate base of certain public utilities. Permits an electricity supplier to recover costs associated with electric lines facilities projects. Permits certain utilities to recover certain distribution system improvement charges. Requires an electricity supplier to: (1) supply a certain percentage of its total electricity supply from renewable energy resources; and (2) include certain information concerning energy sources in customers' bills. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply electricity from renewable energy resources to pay a penalty. Deposits the penalties in the fund.

Effective: Upon passage; July 1, 2007.

Grubb, Koch

January 23, 2007, read first time and referred to Committee on Commerce, Energy and Utilities.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1496

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-23 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** The commission shall keep
3 itself informed of all new construction, extensions and additions to the
4 property of such public utility and shall prescribe the necessary forms,
5 regulations and instructions to the officers and employees of such
6 public utility for the keeping of construction accounts which shall
7 clearly distinguish all operating expenses and new construction. Unless
8 a public utility shall obtain the approval by the commission of any
9 expenditure exceeding ten thousand dollars (\$10,000) for an extension,
10 construction, addition or improvement of its plant and equipment, the
11 commission shall not, in any proceeding involving the rates of such
12 utility, consider the property acquired by such expenditures as a part of
13 the rate base, unless in such proceeding the **public** utility shall show
14 that such property is in fact used and useful in the public service;
15 provided, that the commission in its discretion may authorize the
16 expenditure for such purpose of a less amount than shown in such
17 estimate.

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(b) For purposes of subsection (a), the construction, addition, extension, or improvement of a public utility's plant or equipment that is used to provide electric or gas service to a customer of the public utility that produces biodiesel, ethanol, or any other biofuel is in fact used and useful in the public service.

(c) This subsection applies to a public utility's general rate proceeding that immediately follows the public utility's investment in a construction, addition, extension, or improvement described in subsection (b). The public utility may accrue for recovery in the rate proceeding a return on the public utility's investment at the rate of return authorized by the commission in the public utility's general rate proceeding immediately preceding the investment.

SECTION 2. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Electric Line Facilities Projects

Sec. 1. As used in this chapter, "assigned service area" has the meaning set forth in IC 8-1-2.3-2.

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 3. As used in this chapter, "electric line facilities" means the following:

- (1) Overhead or underground electric transmission lines.
- (2) Overhead or underground electric distribution lines.
- (3) Electric substations.
- (4) Overhead or underground telecommunications line facilities associated with an item listed in subdivisions (1) through (3).

Sec. 4. As used in this chapter, "electric line facilities project" means the construction, operation, maintenance, reconstruction, relocation, addition to, upgrading of, or removal of electric line facilities.

Sec. 5. As used in this chapter, "electricity supplier" means a public utility that furnishes retail electric service to the public.

Sec. 6. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1.

Sec. 7. As used in this chapter, "regional transmission organization" refers to the regional transmission organization approved by the federal energy regulatory commission for the geographic area in which an electricity supplier's assigned service area is located.

Sec. 8. As used in this chapter, "renewable energy resources"

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has the meaning set forth in IC 8-1-8.8-10.

Sec. 9. The commission shall encourage electric line facilities projects by creating the following financial incentives for electric line facilities that are reasonable and necessary:

(1) The timely recovery of costs incurred by an electricity supplier in an electric line facilities project.

(2) The timely recovery of costs, by means of a periodic rate adjustment mechanism, incurred by an electricity supplier taking service under a tariff of, or being assessed costs by, a regional transmission organization.

(3) The timely recovery of costs, by means of a periodic rate adjustment mechanism, incurred by an electricity supplier in generating electricity from, or purchasing electricity generated from, a renewable energy resource.

(4) The authorization of up to an additional one (1) percentage point on the return on shareholder equity that would otherwise be allowed to be earned on an electric line facilities project.

Sec. 10. (a) An electricity supplier must submit an application to the commission for approval of an electric line facilities project.

(b) The commission shall prescribe the form for an application submitted under this section.

(c) Upon receipt of an application under subsection (a), the commission shall review the application for completeness. The commission may request additional information from an applicant as needed.

(d) The commission shall, after notice and hearing, issue a determination of an electric line facilities project's eligibility for the financial incentives described in section 9 of this chapter not later than one hundred twenty (120) days after the date of the application.

(e) The commission shall approve an application by an electricity supplier for an electric line facilities project that is reasonable and necessary. An electric line facilities project is presumed to be reasonable and necessary if the electric line facilities project is consistent with, or part of, a plan developed by the regional transmission organization.

(f) This section does not relieve an electricity supplier of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7.

SECTION 3. IC 8-1-31-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. As used in this chapter, "eligible

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distribution system improvements" means new used and useful ~~water~~
public utility plant projects that:

- (1) do not increase revenues by connecting the distribution system to new customers;
- (2) are in service; and
- (3) were not included in the public utility's rate base in its most recent general rate case.

SECTION 4. IC 8-1-31-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. As used in this chapter, "public utility" means a:

- (1) public utility; (as defined in IC 8-1-2-1(a)); ~~or~~
- (2) municipally owned utility; (as defined in IC 8-1-2-1(h)); **or**
- (3) local district corporation (as defined in IC 8-1-13-23(b));**
that produces, transmits, delivers, or furnishes heat, light, water,
or power.

SECTION 5. IC 8-1-31-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in subsection (d), a public utility ~~providing water service~~ may file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the public utility's basic rates and charges to provide for recovery of DSIC costs.

(b) The public utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission.

(c) Publication of notice of the filing is not required.

(d) A public utility may not file a petition under this section in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility.

SECTION 6. IC 8-1-31-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **(a)** The commission may not approve a DSIC to the extent it would produce total DSIC revenues exceeding five percent (5%) of the public utility's base revenue level approved by the commission in the public utility's most recent general rate proceeding.

(b) The commission may not approve that part of a DSIC that exceeds five million dollars (\$5,000,000).

SECTION 7. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 35. Renewable Energy Development

Sec. 1. As used in this chapter, "electricity supplier" means a public utility that furnishes retail electric service to the public.

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1 **Sec. 2.** As used in this chapter, "fund" refers to the renewable
2 energy resources fund established by section 9 of this chapter.

3 **Sec. 3.** As used in this chapter, "regional transmission
4 organization" refers to a regional transmission organization
5 approved by the federal energy regulatory commission for the
6 geographic area in which an electricity supplier's assigned service
7 area (as defined in IC 8-1-2.3-2) is located.

8 **Sec. 4.** As used in this chapter, "renewable energy credit", or
9 "REC", means one (1) megawatt hour of electricity generated by
10 renewable energy resources that is:

- 11 (1) physically metered and verified; and
- 12 (2) possessed by not more than one (1) person at a time.

13 **Sec. 5. (a)** As used in this chapter, "renewable energy resources"
14 includes the following sources for the production of electricity:

- 15 (1) Dedicated crops grown for energy production.
- 16 (2) Methane systems that convert waste products, including
17 animal, food, and plant waste, into electricity.
- 18 (3) Methane recovered from landfills.
- 19 (4) Wind.
- 20 (5) Hydropower, other than hydropower involving the
21 construction of new dams or the significant expansion of
22 existing dams.
- 23 (6) Solar photovoltaic cells and panels.
- 24 (7) Fuel cells that directly convert chemical energy in a
25 hydrogen rich fuel into electricity.
- 26 (8) Wood and sawmill waste, other than waste derived from
27 virgin timber.
- 28 (9) Agricultural crop waste.
- 29 (10) Combined heat and power systems that:
 - 30 (A) use natural gas or renewable energy resources as
31 feedstock; and
 - 32 (B) achieve at least seventy percent (70%) overall
33 efficiency.

34 **(b)** The term does not include energy from the incineration,
35 burning, or heating of the following:

- 36 (1) Tires.
- 37 (2) Garbage.
- 38 (3) General household, institutional, or commercial waste.
- 39 (4) Industrial lunchroom or office waste.
- 40 (5) Landscape waste.
- 41 (6) Construction or demolition debris.
- 42 (7) Any other resource the incineration, burning, or heating

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of which the commission determines would adversely impact public health.

(8) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 6. (a) Each electricity supplier shall supply electricity generated by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

- (1) In 2009, at least one and five-tenths percent (1.5%).
- (2) In 2010, at least three percent (3%).
- (3) In 2011, at least four percent (4%).
- (4) In 2012, at least five percent (5%).
- (5) In 2013, at least six percent (6%).
- (6) In 2014, at least seven percent (7%).
- (7) In 2015, at least eight percent (8%).
- (8) In 2016, at least nine percent (9%).
- (9) In 2017 and thereafter, at least ten percent (10%).

For purposes of this subsection, electricity is measured in megawatt hours.

(b) Of the electricity generated by renewable energy resources under subsection (a), the following percentages must be supplied from electricity produced from solar photovoltaic cells and panels:

- (1) In 2010 through 2013, thirteen ten-thousandths of one percent (0.0013%).
- (2) In 2014 and thereafter, two hundred three ten-thousandths of one percent (0.0203%).

(c) In 2009 through 2013, renewable energy resources must be generated in:

- (1) an Indiana facility; or
- (2) an area that is:
 - (A) adjacent to Indiana; and
 - (B) designated a serious or severe ozone nonattainment area by the United States Environmental Protection Agency.

(d) An electricity supplier may own or purchase RECs to comply with subsection (a) or (b).

(e) An electricity supplier that fails to comply with subsection (a) or (b) shall deposit in the fund established by section 9 of this chapter an amount equal to:

- (1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under subsections (a) and (b); multiplied by

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(2) fifty dollars (\$50).

(f) An electricity supplier is not required to comply with subsection (a) or (b) if the commission determines that the electricity supplier has demonstrated that:

(1) renewable energy resources are not available to the electricity supplier in sufficient quantities; or

(2) the cost of renewable energy resources available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier;

to allow the electricity supplier to comply with subsection (a) or (b). The commission shall conduct a public hearing to make a determination under this subsection.

(g) If the commission determines under subsection (f) that adequate renewable energy resources are not available or that the cost of available renewable energy resources is not reasonable, the commission shall:

(1) reduce the affected electricity supplier's obligations under subsection (a) or (b) as appropriate; and

(2) review its determination not more than six (6) months after the reduction under subdivision (1) takes effect.

Sec. 7. (a) For purposes of calculating RECs to comply with section 6(a) of this chapter:

(1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.

(2) One (1) megawatt hour of electricity generated by a renewable energy resource described in section 5(a)(2), 5(a)(3), 5(a)(7), or 5(a)(8) of this chapter that originates in Indiana equals one and two-tenths (1.2) RECs.

(3) One (1) megawatt hour of electricity that is:

(A) generated by a renewable energy resource in the territory of a regional transmission organization; and

(B) imported into Indiana;

equals five-tenths (0.5) REC.

(4) One (1) megawatt hour of electricity that is generated:

(A) by a renewable energy resource described in section 5(a)(10) of this chapter in Indiana; and

(B) in a facility constructed after June 30, 2007;

equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission may not be considered for purposes of

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calculating an REC.

(c) An electricity supplier may satisfy not more than ten percent (10%) of the electricity supplier's requirement under section 6(a) of this chapter by owning or purchasing RECs calculated under subsection (a)(4).

(d) An electricity supplier may calculate only one (1) REC for each megawatt hour of electricity.

Sec. 8. (a) This section applies to a commercial or industrial customer that purchases electricity generated by an electricity supplier from renewable energy resources.

(b) The customer may sell credits that are based on the customer's purchase described in subsection (a) to an electricity supplier to comply with section 6(a) or 6(b) of this chapter.

(c) For purposes of calculating credits under subsection (b), one (1) megawatt hour of electricity that is:

- (1) purchased by a commercial or industrial customer; and
- (2) sold to an electricity supplier;

equals one-tenth (0.1) megawatt hour of electricity for purposes of complying with section 6(a) or 6(b) of this chapter.

(d) A customer credit may be calculated under this section in addition to an REC under section 7 of this chapter for the same megawatt hour of electricity.

Sec. 9. (a) The renewable energy resources fund is established to:

- (1) support the development, construction, and use of renewable energy resources, including small scale renewable energy resources, in rural and urban Indiana; and
- (2) reimburse the Indiana economic development corporation and the commission for expenses incurred under section 8 of this chapter.

(b) The fund consists of the following:

- (1) Money deposited under section 6(e) of this chapter.
- (2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not

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revert to the state general fund.

Sec. 10. (a) This section applies if there is sufficient money in the fund under section 8 of this chapter to reimburse the Indiana economic development corporation and the commission for expenses incurred under subsection (b).

(b) The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

Sec. 11. (a) Not less than semiannually, an electricity supplier shall report in each customer's bill the percentage of the total electricity supplied for each of the immediately preceding five (5) calendar years by the electricity supplier from the following sources:

- (1)** Coal.
- (2)** Natural gas.
- (3)** Nuclear energy.
- (4)** Wind.
- (5)** Biomass.
- (6)** Solar.

(b) The commission shall publish the information reported under subsection (a) on the commission's web site.

Sec. 12. Beginning in 2011, and not later than March 1 of each year, a utility shall file with the commission a report of the utility's compliance with this chapter for the preceding calendar year.

Sec. 13. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 8. [EFFECTIVE JULY 1, 2007] Not later than April 1, 2013, the Indiana utility regulatory commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this SECTION must include:

- (1)** an analysis of; and
- (2)** any legislative proposals the commission believes would increase;

the effectiveness of and industry compliance with IC 8-1-35, as added by this act.

SECTION 9. An emergency is declared for this act.

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